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SIPDIS

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SUBJECT: NIGERIA: NATIONAL ASSEMBLY TO REVIEW ELECTORAL ACT

REF: ABUJA 3228

(U) Classified by CDA Andrews; Reasons 1.5 (b/d).

11. (U) The Nigerian House of Representatives may cut short its holiday recess (through January 22) to the first week of January to review the electoral act signed by President Obasanjo on December 6. Speaker of the House Ghali Umar Na'Abba said that a committee created at his discretion had already met and drafted an amended version of the law. The Senate may also review the law during a session primarily addressing security in the wake of the Ige assassination. A principal point in the controversy is the allegation that the legislation Obasanjo signed is not identical to the bill passed by the National Assembly.

12. (C) Since Obasanjo signed the controversial act, it has been at the center stage of Nigerian politics (reftel), overtaken in the media only by the assassination of Attorney General Chief Bola Ige. The governors, in addition to human and civil rights advocates and members of new political associations, complain that the act was designed to protect Federal-level incumbents against challengers and the existing parties (or at least the PDP and APP, since the AD is falling apart) against new political groupings.

13. (U) One of the most controversial sections of the law (Clause 80.1) dictates that only parties gaining 10 percent of the seats in local government elections spread among at least two-thirds of Nigeria's states are allowed to contest in national elections. Because the act also dictates that local government elections will occur after state and national contests, the act precludes new political parties from contesting for state and national seats in 2003. (Moreover, since the governors will be replaced before local government officials, it removes a great deal of gubernatorial influence in 2003.). It will be extremely difficult for new political groups to build strength among the electorate and to raise funds if they have no hope of influence beyond the LGA level in 2003.

14. (C) It now appears that this controversial clause may not have been in the final version of the bill passed by the National Assembly to the President. Speaker Na'Abba, describing the chain of events in "ThisDay" on December 27, stated that the President sought amendments from the Assembly after he received the bill, but that this request had been rejected. According to Na'Abba, the controversial clause 80.1 was not in the bill that the Assembly sent to the President for his signature. His implication is that President Obasanjo or his advisers engaged in some sort of line-item amendment. Several Senators have suggested the same thing.

15. (C) Beyond the doubtful constitutionality of a line-item amendment, the allegation of impropriety on the part of Aso Rock does nothing to build confidence in the political system. Already, prominent voices are questioning whether the President broke the law. Secretary of the Board of Trustees of the United Nigeria Development Party Bashir A. Albasu, described the action of the President as an impeachable offense, and said the system was moving in such a way as to allow Obasanjo to become a "civilian dictator."

16. (SBU) Of course, voices from new political organizations are the most vehement. However, dissenting voices are being raised even within Obasanjo's own party. Representative Farouq Lawan (PDP-Kano), Chairman of the House Inter-Parliamentary Relations Committee noted that the clause on new party exclusion was never discussed on the House floor, and said, "This is not dictatorship. This is democracy and you cannot impose an unpopular law on the people." Senator Samaila Mammam (PDP-Kano), called Obasanjo's action "immoral," and publicly threatened to resign his seat if the upper house refuses to review the law when it resumes business in January.

17. (SBU) More disturbing are growing references to Nigeria's troubled past. National Chairman of the People's Redemption Party (PRP), Alhaji Abdulkadir Balarabe Musa, was quoted as saying that, "This was what happened in the 1983 elections, when the then-ruling National Party of Nigeria used its incumbency to win the whole elections, this action prompted the military to take over power from the NPN after only three months of stolen tenure."

18. (C) The electoral law was the subject of much public debate on its merits, even before questions about the propriety of its enactment were raised. If a political solution cannot be found quickly, the courts may find themselves faced not only with a question of whether the law (as signed by Obasanjo) is compatible with the 1999 Constitution but also asked to determine whether the law before them was duly enacted.
Andrews